

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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PETER RUPP,

*Plaintiff,*

**ATTORNEY DECLARATION**

-against-

9:24-cv-00394  
(GTS/ML)

ASAT M.J. YOUNIS; SGT R.B.  
HOWARD; SGT SHORT; CORRECTION  
OFFICER RASTANI; CORRECTION  
OFFICER ATCHER; CORRECTION  
OFFICER JOHN DOES #1-10,

*Defendants.*

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Elizabeth Lombardi, pursuant to § 1746 of Title 28 of the United States Code, declares the following to be true and correct under penalty of perjury under the laws of the United States of America:

1. I am an Assistant Attorney General for the State of New York and appear on behalf of Defendants ASAT M.J. YOUNIS, SGT R.B. HOWARD, SGT SHORT, CORRECTION OFFICER RASTANI and CORRECTION OFFICER ATCHER (“Defendants”), in this action.

2. I make this Declaration in support of Defendants’ motion to dismiss for failure to state a claim pursuant to Fed. R. Civ. P. §12(b)(6).

**RELEVANT PROCEDURAL HISTORY**

3. Plaintiff filed the federal complaint in the instant matter on March 21, 2024. (ECF No. 1).

4. On May 15, 2024, Plaintiff filed an amended federal complaint. (ECF No. 7). Within said Complaint, the Plaintiff asserts the following claims: (1) Excessive Force under 42 U.S.C. § 1983; (2) Failure to Intervene and Conspiracy under 42 U.S.C. § 1983; and (3) Deliberate

Indifference under 42 U.S.C. § 1983.

5. As more fully set forth in the accompanying Memorandum of Law, Defendants now move for an order pursuant to Fed. R. Civ. P. § 12(b)(6) dismissing Plaintiff's Complaint, in its entirety, with prejudice.

Dated: June 27, 2024  
Syracuse, New York

/s/ Elizabeth Lombardi  
Elizabeth Lombardi, Esq.  
Assistant Attorney General